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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------------|------------------|
| 10/627,435 | 07/25/2003 | Kevin L. Parsons | 8342-89801 | 2344 |
| 24628 | 7590 | 11/30/2006 | EXAMINER DZIERZYNSKI, EVAN P | |
| WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606 | | | ART UNIT 2875 | |

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,435

Applicant(s)

PARSONS ET AL.

Examiner

Evan Dzierzynski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15-25, 28-36, 39-50 and 54 is/are rejected.
- 7) ☒ Claim(s) 12-14, 26, 27, 37, 38 and 51-53 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 15-25, 28-36, 39-50 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruwer (US 6,249,089 B1) in view of Galli (US 2003/0147239).

In regard to independent claims 1, 16, 29, and 40: Bruwer discloses a flashlight and a method of operating the flashlight having a momentary contact (102 in Fig. 2) provided on a body of the flashlight for activating a light source of the flashlight and for selection of any of a plurality of different operating modes, including flashing function (col. 7, lines 6-7) and S.O.S. flashing function (col. 7, lines 32-33)]; and means (201) for detecting entry of an input code through the momentary contact where the input code identifies one of plurality of operating modes; and means (202) for operating the light source in accordance with identified mode. Further, Bruwer teaches a sequential mode of operating the flashlight in an emergency notification function (col. 7, lines 5-12) and deactivating the flashlight without the identified mode (col. 7, lines 25-30). Bruwer does not teach operating a light source in accordance with each identified mode of the plurality of operating modes including activating, deactivating and activating the flashlight through use of the momentary contact without changing the identified mode. Galli discloses a dual mode switch mechanism for a flashlight, the dual mode switch

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mechanism operates a light source in accordance with each identified mode of the plurality of operating modes including activating, deactivating and activating the flashlight through use of the momentary contact without changing the identified mode (paragraph 0004). It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute Bruwer's switch with the dual mode switch as taught by Galli, motivated by Galli's advantage in paragraph 0006.

It is noted that applicant has not separately argued the dependent claims nor the rejections thereof.

Response to Arguments

Applicant's arguments filed 9/21/2006 have been fully considered but they are not persuasive.

As for the argument in regard to the Galli reference (claims 1, 16, 29, and 40), when the device of Galli is engaged into the momentary on position, the device is capable of activating and deactivating the flashlight, the momentary contact is interpreted as being used to perform these functions in this particular situation because the device must be switched away from this momentary contact to engage another function of the device. Although the momentary contact may or may not specifically cause the change to the other functions of the lighting device, the fact that the device can be changed into the other functions of the device from the position in which momentary contact is engaged meets the claimed limitation of "...operating a light source in accordance with each identified mode of the plurality of operating modes

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including, activating, deactivating, and activating the flashlight through use of the momentary contact.”

Allowable Subject Matter

Claims 12-14, 26-27, 37-38, and 51-53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Although the prior art of record, Bruwer, discloses the step of selecting the SOS mode, Bruwer fails to disclose the step of activating the momentary contact three times to select the SOS mode wherein each activation is no more than one-half second apart.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jigamian et al. (US 2003/0137834) discloses a lighting device with a momentary contact which changes the device into one of a plurality of different operating modes (paragraph 0045).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evan Dzierzynski whose telephone number is (571)-272-2336. The examiner can normally be reached on Monday through Friday 7:00 am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on M-F (571)-272-2009. The fax phone

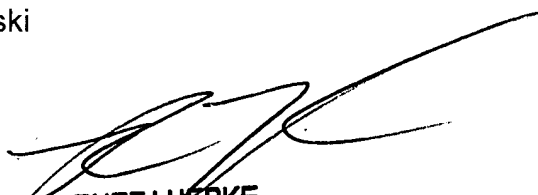
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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Evan Dzierzynski

11/16/2006



RENEE LUEBKE
PRIMARY EXAMINER